

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERTO DURAND,

Plaintiff

Case No. 3:19-cv-00365-MMD-WGC

ORDER

v.

STATE OF NEVADA, et al.,

Defendants

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), has filed two separate civil rights complaints. (ECF Nos. 1-1, 6-1.) The second complaint appears to contain different claims than those included in the initial complaint. The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court grants Plaintiff leave to file a fully complete first amended complaint within 30 days. If Plaintiff does not file a fully complete amended complaint, the court will only screen his initial complaint (ECF No. 1-1) and will not consider any allegations in Plaintiff’s second complaint (ECF No. 6-1).

If Plaintiff chooses to file a first amended complaint, he is advised that a first amended complaint supersedes (replaces) the original complaint, as well as any other previously filed complaints, and, thus, the first amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). Plaintiff’s first amended complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit.

1 Moreover, Plaintiff must file the first amended complaint on this Court's approved prisoner
2 civil rights form, and it must be entitled "First Amended Complaint."

3 **II. CONCLUSION**

4 For the foregoing reasons, IT IS ORDERED that, if Plaintiff chooses to file a first
5 amended complaint, Plaintiff will file the first amended complaint within 30 days from the
6 date of entry of this order.

7 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
8 approved form for filing a § 1983 complaint, instructions for the same, and a copy of both
9 of his complaints (ECF Nos. 1-1, 6-1). If Plaintiff chooses to file a first amended complaint,
10 he must use the approved form and he will write the words "First Amended" above the
11 words "Civil Rights Complaint" in the caption.

12 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a first amended
13 complaint, the Court will screen the original complaint (ECF No. 1-1) only and strike
14 Plaintiff's second complaint (ECF No. 6-1) from the docket.

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16 DATED THIS 18th day of August 2020.

17 *William G. Cobb*
18 UNITED STATES MAGISTRATE JUDGE
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